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3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 STEVEN MARK HAYDEN, SR.,

8 Plaintiff,

9 v.

10 COMMERCIAL LITIGATION DOCKET, et
11 al.,

12 Defendants.

Case No. 2:18-cv-02403-RFB-DJA

AMENDED ORDER

13 **I. INTRODUCTION**

14 Before the Court is Defendants' Motion to Dismiss (ECF No. 19).

15
16 **II. PROCEDURAL BACKGROUND**

17 The Petition for Removal in this action was filed December 20, 2018. ECF No. 1. The
18 instant Motion to Dismiss was filed on February 6, 2019. ECF No. 19. A hearing on the motion
19 was vacated on August 1, 2019 and the Court took the instant motion, as well as others, under
20 submission. ECF No. 134.

21 **III. FACTUAL ALLEGATIONS**

22 Plaintiff Steven Mark Hayden filed his complaint in the Eight Judicial District court of
23 Clark County, Nevada on November 7, 2018. Ex. at 5, ECF No. 1-1. Plaintiff's complaint listed
24 five causes of action, including abuse of process, intentional interference in contractual business
25 relations, assault, unjust enrichment, and civil conspiracy. ECF No. 1-1 at 8-11. The Defendants
26 named in the action were the Commercial Litigation Docket (CLD) (an unincorporated
27 association), Bishop Colvin Johnson and Kent LLC, Western Steel Inc. (an Alabama corporation),
28 Maynard, Cooper, and Gale P.C., William B. Cashion, Fred Campbell, James P. Naftel, John D.

1 Bethay III, Gerald D. Colvin, James L Goyer III, Starr T. Drum, Mike E. Hale, Dianna Hale,
2 Raymond Rogers, Jacqueline Rodgers, Amanda Roy, Joyce White Vance, Patrick E. Kennedy,
3 and Edward Adams. Id. at 1-3. Plaintiff also filed suit against Anne Marie Adams, J. Scott Vowell,
4 Roy Moore, James Allen Main, Alisa Kelli Wise, Gregory Shaw, Lyn Stuart, Thomas Francis
5 Parker, Michael F. Bolin, Tommy Bryan, Julia Weller, Sandra Hall Turner, Robert S. Vance,
6 Houston L. Brown, Jane B. Graffeo, Dottie Parker (“Alabama Judicial Defendants”¹). Id. After
7 several Voluntary Dismissals, Defendants James P. Naftel, John D. Bethay III, Joyce White Vance,
8 Bishop Colvin Johnson and Kent LLC, Fred Campbell, and Gerald D. Colvin, the United States of
9 America, Maynard, Cooper, and Gale P.C., and several Alabama Judicial Defendants were
10 dismissed from the case.

11 Plaintiff alleged in his state court complaint that Defendants were involved in a scheme in
12 which the CLD would assign cases to Defendants who would agree to take bribes either directly
13 or through their spouses, that Defendants retaliated against Plaintiff for attempting to “shut down”
14 the CLD, by “seizing” his wife, conspiring to control the assets of the Nevada Trust, of which
15 Plaintiff was a trustee, and conspiring to seize Plaintiff’s Medicare income from Nevada without
16 filing garnishment or collection procedures as required by law. ECF No. 1-1 at 3-4.

17 The United States of America petitioned to remove the case from the Eighth Judicial
18 District Court to this Court on December 20, 2018 on the grounds that the state court complaint
19 named an employee of the US Attorney’s Office. ECF No. 1 at 2. The remaining Alabama Judicial
20 Defendants filed the instant Motion to Dismiss on February 6, 2019. ECF No. 19. They are Julia
21 Weller, Anne Marie Adams, and Sandra Hall Turner. They move to dismiss Plaintiff’s claims
22 against them for lack of personal jurisdiction and absolute immunity.

23 24 **IV. LEGAL STANDARD**

25 **A. Personal Jurisdiction**

26 A plaintiff bears the burden of establishing personal jurisdiction. Tuazon v. R.J. Reynolds

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28 ¹ The Alabama Judicial Defendants brought the instant Motion to Dismiss the Petition for Removal (ECF No. 19) and include Mike Graffeo as a movant. The Court notes that Mike Graffeo is not named as a Defendant in this action.

1 Tobacco Co., 433 F.3d 1163, 1168 (9th Cir. 2006). When, as here, the Court resolves the motion
2 to dismiss based only on written submissions, a plaintiff must make a prima facie showing of facts
3 that would support personal jurisdiction. Id. That is, Plaintiffs “need only demonstrate facts that if
4 true would support jurisdiction.” Ballard v. Savage, 65 F.3d 1495, 1498 (9th Cir.1995).

5 To establish that personal jurisdiction over a defendant is proper, a plaintiff must show (1)
6 that the forum state’s long-arm statute confers personal jurisdiction and (2) that the exercise of
7 jurisdiction comports with the constitutional principles of due process. Rio Properties, Inc. v. Rio
8 Int’l Interlink, 284 F.3d 1007, 1019 (9th Cir.2002). Because Nev. Rev. Stat. section 14.65 permits
9 Nevada courts to exercise jurisdiction to the same extent as the Constitution, this Court need only
10 consider the constitutional principles of due process. Walden v. Fiore, 134 S. Ct. 1115, 1121
11 (2014).

12 13 **V. DISCUSSION**

14 Because the question of personal jurisdiction “goes to the court’s power to exercise control
15 over the parties,” the Court will resolve this issue before reaching the issue of absolute immunity.
16 Leroy v. Great W. United Corp., 443 U.S. 173, 180 (1979). Defendants argue the Court does not
17 have personal jurisdiction over them because Plaintiff has not met his burden of establishing
18 personal jurisdiction. Defendants assert Plaintiff has not shown Defendants have “continuous and
19 systematic ties with the forum” such that they are subject to general jurisdiction. ECF No. 19 at 6
20 (citing Tuazon v. R.J. Reynolds Tobacco Co., 433 F.3d 1163, 1171 (9th Cir. 2006). Nor they argue,
21 has Plaintiff alleged the Court has specific jurisdiction over Defendants, because Plaintiff has not
22 alleged Defendants have sufficient minimum contacts with this state such that the assertion of
23 personal jurisdiction would not “offend traditional notions of fair play and substantial justice.” Id.
24 (citing Int’l Shoe Co. v. Wash., 326 U.S. 310, 316 (1945)).

25 Plaintiff’s state law complaint asserts Defendants “conspired to control” assets in Nevada
26 over which Plaintiff was trustee and conspired to seize Plaintiff’s Medicare income from Nevada.
27 ECF No. 1-1 at 8. Plaintiff’s response to the Motion to Dismiss reiterates these conclusory
28 statements and cites to the complaint. See ECF No. 55 at 6-9. The Court finds that Plaintiff has not

1 met his burden of establishing personal jurisdiction by making “a prima facie showing of facts that
2 would support personal jurisdiction.” Tuazon, 433 F.3d at 1168. Plaintiffs allegations are
3 conclusory, and do not indicate how Defendants’ minimum contacts with this state are sufficient
4 such that the assertion of personal jurisdiction would not offend constitutional principles of due
5 process. Plaintiff has failed to adequately demonstrate facts that “if true would support
6 jurisdiction.” Ballard, 65 F.3d at 1498. Therefore, the Court grants the Motion to Dismiss.

7 Finally, the Court has an obligation to determine whether it has jurisdiction over the claims
8 or dispute in a case before it. The Court finds, reviewing the remaining claims, that Plaintiff has
9 not stated a clear and concise set of claims pursuant to Rule 8 over which this Court would have
10 jurisdiction. The Court does not find that these deficiencies can be cured by amended so the Court
11 will also deny the Motion to Amend [ECF No. 117]. The Court will therefore dismiss the remaining
12 claims in this case.

13
14 **VI. CONCLUSION**

15 For the reasons stated above,

16 **IT IS THEREFORE ORDERED** that the Motion to Dismiss (ECF No. 19) is GRANTED
17 as to remaining Defendants Julia Weller, Anne Marie Adams, and Sandra Hall Turner.

18 **IT IS FURTHER ORDERED** that the remaining claims are dismissed with prejudice for
19 lack of jurisdiction. The remaining motions are dismissed without prejudice. The Clerk of Court
20 is instructed to enter judgment accordingly and close this case.

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22 DATED: September 27, 2019.



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24 **RICHARD F. BOULWARE, II**
25 **UNITED STATES DISTRICT JUDGE**
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